

**FILED**

**MAR 22 2016**

Clerk, U S District Court  
District Of Montana  
Missoula

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

ANTHONY L. EVANS,

Plaintiff,

vs.

TERRIE STEFALO, TOM WILSON,  
and LEROY KIRKEGARD,

Defendants.

CV 15-57-H-DLC-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Findings and Recommendations in this matter on February 22, 2016, recommending dismissal of Plaintiff Anthony L. Evans's ("Evans") Complaint. The parties failed to timely object to the Findings and Recommendations, and so waived their right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the Findings and Recommendations, the Court finds no

clear error in Judge Johnston's conclusion that multiple factors weigh in favor of sua sponte dismissal of this case. Chief among the factors cited by Judge Johnston is Evans's failure to respond to the Court's Order requiring Evans to update his address in compliance with Local Rule 5.2(a). (Doc. 7.) Evans has yet to comply with this Order. As such, the Court will adopt Judge Johnston's recommendation to dismiss this proceeding. Finally, the Court notes that the docket in this manner reflects that a copy of the Findings and Recommendations was sent to an address listed for Evans on the Department of Corrections website. (Doc. 10.) This mail, sent on February 29, 2016, was apparently received at that address as it was not returned to the Clerk of Court as undeliverable.

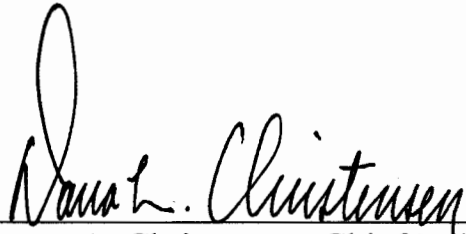
IT IS ORDERED that:

(1) Judge Johnston's Findings and Recommendations (Doc. 9) are  
ADOPTED IN FULL.

(2) This matter is dismissed with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and Local Rule 5.2(b). The Clerk of Court shall close this matter.

(3) The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

Dated this 22<sup>nd</sup> day of March, 2016.

  
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Dana L. Christensen, Chief Judge  
United States District Court